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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,734	01/08/2004	Stephnie Alleyne	P/139-1	6341

7590

02/24/2006

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EXAMINER

MCKANE, ELIZABETH L

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/753,734	Applicant(s) ALLEYNE ET AL.	
	Examiner Leigh McKane	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stein et al. (U.S. 5,394,506) in view of Leonard et al. (U.S. 5,937,140) and Ming (GB 2,338,610).

Stein et al. teaches a heat activated air freshener system including a male insert **32** plug that is inserted into a cigarette lighter and an air freshener unit **42**. See Figure 3. Stein et al. does not disclose an opening which allows for plugs of other devices.

However, the concept of an air freshener having a receptacle for the plug of another device is known in the art. Leonard et al. teaches an air freshener diffuser for a standard wall outlet which all incorporates a "plug-through" feature so that an outlet is not lost when using the device. See col.5, lines 20-31.

In addition, Ming discloses an adapter **17** for a cigarette lighter that may have two or more sockets **53, 55, 57** for additional devices, such as cell phones. See Abstract and Figure 4.

As it was known in the art at the time of the invention to provide a fragrance diffuser with additional sockets so as to avoid losing an outlet when using the device as evidenced by Leonard et al., it would have been obvious to do the same in the invention of Stein et al. by providing additional sockets in the manner of Ming.

With respect to the shape of the freshener, it has been well-established that the choice of shape in a device is generally not significant or patentable where it relates to mere aesthetics.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stein et al, Leonard et al, and Ming as applied to claim 1 above, and further in view of Chan (Des. 398,386) and Dawn (US 4,808,347).

The combination *supra* fails to teach an extension cord or an external fan. Chan, however, discloses an electric fan having an extension cord that plugs into a cigarette lighter. See Figures. Furthermore, Dawn teaches a fan driven air freshener which plugs into a cigarette lighter. The fan 29 assists in dispersing the scent from disc 39. As fans are known in the art of air freshening for use in dispersing a scent, as evidenced by Dawn, and as the extension cord of Chan permits the device to be moved to a desirable location, it would have been obvious to one of ordinary skill in the art to provide the exterior fan and extension cord of Chan to the air freshener of Stein et al..

Response to Arguments

4. Applicant argues on page 6 of the Response that “Stein...does not allow for plugins for other devices” and that the “wedged shaped divergent housing, would not allow for a plugin.” However, as set forth in the rejection, Stein et al. is combined with the secondary references Leonard et al. and Ming. When making the combination, one of ordinary skill in the art would have made the necessary changes to the shape of the housing of Stein et al. in order to provide for the additional plug-in receptacles.

Applicant argues that because Leonard et al. uses a pronged receptacle, there is no

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motivation to combine Stein et al. and Leonard et al.. The examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. In re Nomiya, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of the disclosures taken as a whole would suggest to one of ordinary skill in the art. In re Simon, 174 USPQ 114 (CCPA 1972). Moreover, a reference is to be considered not only for what it expressly states, but for what it would reasonably have suggested to one of ordinary skill in the art. In re DeLisle, 160 USPQ 806 (CCPA 1969). In the instant case, the combination of Stein et al. with Leonard et al. clearly suggests to one of ordinary skill in the art that including an additional receptacle on an air fresher is desirable. Therefore, it would have been obvious to provide one on the apparatus of Stein et al. and to make the necessary structural changes to the device of Stein et al. in order to do so.

5. With respect to the extension cord and external fan, the amendments to claim 4 have required a new rejection using Chan and Dawn. Thus, the arguments concerning Abrahamian are moot.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

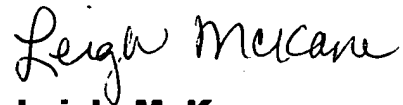
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh McKane whose telephone number is 571-272-1275. The examiner can normally be reached on Monday-Thursday (5:30 am-2:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink that reads "Leigh McKane". The script is cursive and fluid.

Leigh McKane
Primary Examiner
Art Unit 1744

elm
18 February 2006